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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**DONALD THOMAS LATO, A.K.A.
DONALD T. LATO**
1177 South Palm Canyon Drive
Palm Springs, California 92264

Registered Nurse License No. 552878

Respondent.

Case No. 2009-305

A C C U S A T I O N

Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

PARTIES

1. Complainant brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

Registered Nurse License

2. On or about March 8, 1999, the Board issued Registered Nurse License Number 552878 to Donald Thomas Lato ("Respondent"). The registered nurse license will expire on September 30, 2010, unless renewed.

JURISDICTION

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a

1 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code
2 section 2750) of the Nursing Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a
4 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
5 against the licensee or to render a decision imposing discipline on the license. Under Code
6 section 2811, subdivision (b), the Board may renew an expired license at any time within eight
7 years after the expiration.

8 5. Code section 118, subdivision (b), provides, in pertinent part, that the
9 expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
10 action during the period within which the license may be renewed, restored, reissued or
11 reinstated.

12 STATUTORY PROVISIONS

13 6. Code section 2761 states, in pertinent part:

14 "The board may take disciplinary action against a certified or licensed
15 nurse or deny an application for a certificate or license for any of the following:

16 "(a) Unprofessional conduct, which includes, but is not limited to, the
17 following:

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19 "(4) Denial of licensure, revocation, suspension, restriction, or any other
20 disciplinary action against a health care professional license or certificate by
21 another state or territory of the United States, by any other government agency, or
22 by another California health care professional licensing board. A certified copy of
23 the decision or judgment shall be conclusive evidence of that action.

24

25 "(f) Conviction of a felony or of any offense substantially related to the
26 qualifications, functions, and duties of a registered nurse, in which event the
27 record of the conviction shall be conclusive evidence thereof."

28 7. Code section 490 states in pertinent part:

29 "(a) . . . [A] board may suspend or revoke a license on the ground that the
30 licensee has been convicted of a crime, if the crime is substantially related to the
31 qualifications, functions, or duties of the business or profession for which the
32 license was issued.

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“(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.”

COST RECOVERY

8. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Out-of-State Discipline)

9. Respondent's license is subject to disciplinary action under Code section 2761, subdivision (a)(4), on the ground of unprofessional conduct, in that Respondent was denied a license by the Arizona State Board of Nursing ("Arizona Board"). Effective January 25, 2007, pursuant to the Findings of Fact, Conclusions of Law, and Final Order of Denial in Case No. 0601031, filed by the Arizona Board, attached hereto as **Exhibit "A"** and incorporated herein by reference, Respondent's Application for Licensure by Endorsement submitted to the Arizona Board was denied, on the bases that Respondent had been arrested and charged with crimes, and failed to provide the Arizona Board with a written explanation of his past criminal convictions.

SECOND CAUSE FOR DISCIPLINE

(Criminal Convictions)

10. Respondent is subject to disciplinary action under Code sections 2761, subdivision (f) and 490, in that Respondent has been convicted of the following crimes that are substantially related to the qualifications, functions or duties of a licensed registered nurse:

a. On February 28, 2007, in Arizona, in the Santa Cruz Justice Court, Precinct No. 1, in the matter entitled *State of Arizona v. Lato* (Justice Ct. Santa Cruz County, 2007, No. 2006-580), Respondent was convicted on his plea of guilty of violating Arizona Revised Statute section 13-3415, subdivision (A) (unlawful possession of drug paraphernalia), a

1 felony. The circumstances of the crime are that on or about December 28, 2005, Respondent was
2 arrested for knowingly possessing drug paraphernalia.

3 b. On December 2, 1999, in the Municipal Court of Glendale Courthouse
4 Judicial District, Los Angeles County, California, the matter entitled *People v. Lato* (Super. Ct.
5 Los Angeles County, 1999, No. 9GL04276), Respondent was convicted on his plea of nolo
6 contendere of violating Vehicle Code section 12500, subdivision (a) (unlicensed driver), a
7 misdemeanor.

8 **PRAYER**


9 WHEREFORE, Complainant requests that a hearing be held on the matters herein
10 alleged, and that following the hearing, the Board issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 552878, issued
12 to Donald Thomas Lato, also known as Donald T. Lato;

13 2. Ordering Donald Thomas Lato, also known as Donald T. Lato, to pay the
14 Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code
15 section 125.3; and,

16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: 5/28/09

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RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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